

**Stormwater Rule Revisions**  
**Staff Presentation Notes for September 7, 2006**  
**Board Meeting**

- Stormwater Law became effective in 1997 with adoption of first set of rules
- BEP approved revised rules in November 2004 after a 2-year stakeholder process
- Legislature approved rules in 2005; they became effective November 16, 2005.
- In last session, Legislature approved change in designation of rule-making for future revisions from “major substantive” to “routine technical;” they no longer require legislative approval, unless they involve a local mandate.
- First nine months under the new rules have largely gone well, but a few issues have arisen
- Stakeholder group reconvened for meetings in June and July; approx. 30 people attended each meeting (see handout). Biggest concern has been over the requirements for redevelopment of sites: What standards should be met?
- At the end of the second stakeholder meeting there was general agreement with the changes DEP is proposing to make. Desire has been expressed verbally by a number of stakeholders to have DEP proceed with the proposed changes as quickly as possible.
- Draft proposed for posting sent to the stakeholders on August 17<sup>th</sup>. No comments have yet been received in response.
- Some additional changes are proposed for the posted copy (see Errata sheet).
- Staff recommends that the Board post the draft rule changes to rule-making with a public hearing on October 5, 2006.

### **Summary of the Most Significant Proposed Changes in Chapters 500 & 502**

1. Narrows the definition of developed area to no longer include areas that are changed from forest to meadow. This would allow a project (such as an airport) to clear trees and still qualify under PBR as long as they keep the area in natural vegetation mowed no more than once per year. (see Errata sheet for update)
2. Changes definition of a “linear project” to “linear portion of a project” so that the term matches its usage in the rule, and allows subdivision roads to fall under the definition so that reduced treatment standards will apply to them.
3. Drops the term “BMP standards” due to confusion over multiple meanings (regulatory and non-regulatory) of the term. Those standards will be referred to as “general standards” in the rule.
4. Adds flexibility to general standards so that treatment of impervious area can be reduced from 95% to 90%, provided that overall treatment on the site will remain equivalent.
5. Revises the technical requirements for use of a wet pond under the general standards section.
6. Changes the language on redevelopment of existing impervious area so that it applies to impervious area in place as of November 16, 2005 (the effective date of the rule revisions). This closes a loophole whereby a developer could pave just under an acre just prior to coming in for a permit and have it treated as “existing” in order to avoid treatment of it. (see Errata sheet for update)
7. Changes the language on redevelopment for Site Location projects under the general Standards section so that the project must “meet the general standards to the extent practicable as determined by the department.” This gives us negotiating room so that we are not boxed in to requiring a very expensive treatment technology with high maintenance needs, such as an under parking lot manufactured system. (see Errata sheet for update)
8. Drops the requirement for redevelopment projects to meet the urban impaired stream standard if there will be no increase in impacts due to stormwater runoff. (see Errata sheet for update)
9. In the flooding standard, allows the department to grant a variance for discharges to rivers other than “major river segments” if department determines there will be no adverse impact.
10. Changes Permit by Rule language to add clarity and greater consistency with current PBR practices under the NRPA. (see Errata sheet for update)
11. Revises Permit shield (section 14) language to make it clearer and to emphasize that a project cannot get an exemption from a standard required under the Site Law by breaking the project into pieces and first complying with a lesser standard under the Stormwater Law. The current language regarding redevelopment projects is an example of where in the rule this could arise.
12. Change language in Appendix E to include under-drained soil filter beds, with specifications consistent with language in our new Stormwater BMP Manual.
13. Throughout the rule, minor word changes to improve readability.
14. In Chapter 502, Lakes Most at Risk list, adds the following: Abrams Lake in Eastbrooke; Androscoggin Lake in Wayne; Long Pond in Belgrade; Messalonskee Lake in Belgrade; Great Moose Lake in Hartland. Removes Cobbossee Lake from “severely blooming” category.
15. In Chapter 502, Urban Impaired Stream list, removes Bobbin Mill Brook in Auburn.